

01-22-93 04:16PM PHK&S FLORHAM PK

P16/35

387

1 it because, in order for the pump to work, it has to be a
2 sealed vessel.

3 Q Assuming on a given occasion he put it on a
4 quarry road, would he have occasion to smell it at that
5 time?

6 A Not necessarily.

7 Q When you have examined it in your laboratory,
8 have you smelled it?

9 A Yes.

10 Q Can you describe the smell?

11 It smelled like other types of oils that we
12 have had in our labs.

13 Q Did you notice any strong solvent smell in it?

14 A I never noticed any until Saturday when we went
15 and had that sample taken.

16 Q Is that the normal product you had been
17 accustomed to handling?

18 A No, it wasn't.

19 Q On the four dates in question, which are June 1,
20 July 12, July 13 and July 21, do you know in each case
21 where the truck that was sampled came from, where it

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01-22-93 04:18PM PHK&S FLOHAM PK

P: 7/35

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1 originated?

2 A Yes.

3 Q Would you tell us?

4 A I don't recall the exact date at all but the
5 one date they assumed went from Black & Decker to the
6 quarry came from our tanks. That other lead did come
7 from Black & Decker to the quarry.

8 Q That would be July 13 to Delight?

9 A Yes.

10 Did any of these shipments have a manifest?
11 No, they didn't.

12 Q To the best of your knowledge, did any of the
13 shipments require a manifest?

14 A To the best of my knowledge, they didn't.

15 Q Have you had occasion to examine the roads that
16 you put the oil on?

17 A Yes.

18 Q Could you describe the surface of those roads?

19 A Before we put the oil on or after?

20 Q After.

21 A The surface was dark and it had a penetration

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01-22-93 04:19PM PHK&S FLORHAM PK

P15, 35

389

1 of about an eighth of an inch and it just covered the
2 roadway from shoulder to shoulder wherever the truck had
3 sprayed the oil.

4 Q Are these bottoms of your tanks pure waste oil
5 or is it a mixture of water and oil?

6 A It would definitely be as much water as we
7 could get the oil off of. In other words, the oil is a
8 salable product so we want to put as little of that down
9 as we can. We want to extract as much as we can, so that
generally 90 percent water and 10 percent oil.

10 Q As you understand the regulations that control
11 business, could it be one hundred percent waste oil?

12 A Yes. We don't do it anymore but we have in the
13 past sold our waste for oil spray. When we sell it, we
14 sell it as 100 percent pure waste oil.

15 Q Have you in the past had conversations with
16 representatives of the Department of Health about the
17 practice of spraying the tank bottoms on the haul roads?

18 A Yes, I have.

19 Q Has anyone ever informed you that it was
20 anything except legal?
21

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A AND A WASTE OIL

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JAN-22-1993 12:43 PM M.L.B. PHILA

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PRIVILEGED AND CONFIDENTIAL B&D MA LM

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01-22-93 04:19PM PHK&S FLORHAM PK

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1 A No, they had not. They were even aware of
2 where we sprayed and the full procedure that I described
3 to you.

4 MR. HILLS: That is all on direct.

5 EXAMINATION BY MS. DEBIASE:

6 Q Mr. Goldstein, you said you would remove the
7 aqueous bottoms from the tanks, the waste oil tanks and
8 spray it at quarries when you thought the quarries needed
9 it? You didn't wait for a request?

10 A We would call on occasion but the supervisors
11 responsible for telling us when and when not to

12 They are very hard to catch in their office. I
13 take the chance of sending the truck over there but have
14 them check with the superintendent before they put the
15 oil and water down. At times we have been turned away
16 because the quarry didn't need it.

17 Q Do you know why the truck on the 13th went
18 directly from Black & Decker to the quarry?

19 A I would say we have always been under the
20 impression that the product coming out of Black & Decker
21 is oil and water. Sometimes it is not economical for us

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A AND A WASTE OIL

BB445

WILLIAMSON, WILSON CASE 1:04-22-AMF

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01-22-93 04:20PM PHK&S FLORHAM PK

P20/35

391

1 to bring back a product that has so much water in it and
2 extract the oil when I can take a product directly to
3 the quarry, spray it, and go to another job. That is
4 basically the reason.

5 Q Is that normally what happened when your trucks
6 picked up loads from Black & Decker?

7 A Normally, it would be brought back to our
8 plant.

9 EXAMINATION BY THE HEARING OFFICER:

Mr. Goldstein, how would you know that any of
the material that you received as waste oil did or did
not contain hazardous substances?

13 A We are pretty much relying on the customers.
14 We get calls every day to pick up waste oil.

15 Q So, they use the honor system?

16 A If there is a question in the customer's mind,
17 I ask for an analysis.

18 Q And you use the honor system with Black &
19 Decker?

20 A That is right.

21 Q Did you know in the normal course of business

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A AND A WASTE OIL

00450

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0035616

24 Hour Service

578 - 0956

A & A Waste Oil Company, Inc.

3635 Woodland Avenue
Baltimore, Maryland 21215

Industrial — Commercial — Marine

Oil Spill Correction
Tank Cleaning
Liquid Waste Removal & Hauling

Pollution Control
Lead & Gas Freeing
Mobile Vacuum Service

June 18, 1982

Black & Decker, Inc.
Hampstead, Maryland 21074
Attn: Mr. Raymond Microninus
Dear Mr. Microninus:

This is to certify that all material disposed of by our company is done so in a safe and E. P. A. approved manner. The waste oil product we remove from your company, Black & Decker, Inc. in Hampstead, Md. is first stored in our tanks then disposed of at Oil Recovery, Inc., in Clayton, New Jersey. If you have any further questions, please don't hesitate to call.

Sincerely,

Howard Goldstein
Howard Goldstein
Vice President

cc:

L. G. R. H. S.

J. D. R. H.

~~XXXXXXXXXXXX~~

*not
4/5/82*

A AND A WASTE OIL

00704

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PRIVILEGED AND CONFIDENTIAL B&D MA LM

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07663

A & A WASTE OIL CO., INC.
2835 WOODLAND AVENUE
BALTIMORE, MD. 21215

DATE		7-13-82	
LOCATION		BALTO. MD.	
QUANTITY	DESCRIPTION	PRICE	REMARKS
1			
2			
3	4000 GALS. WASTE		
4	PLUS REMOVED		
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
TOTAL			
RECEIVED BY		<i>[Signature]</i>	

A AND A WASTE OIL

00685

JUL-22-1993 12:44 PM T.L.B. PHILIP

XXX-127

PRIVILEGED AND CONFIDENTIAL B&D MA LM

0035617

15 Q. Okay. I've asked the court reporter
16 to mark -- I'm going to ask the court
17 reporter to pass over to you what's been
18 marked as Kell Exhibit 1. This is -- I've
19 only got a couple of questions on this. This
20 is a 25-page packet of sheets.
21 I am -- the first and simplest
22 question I'm going to ask you is whether on
23 the very first page of that document you
24 recognize the handwriting on the document?
Jurist Reporting Service, Inc.

LINDA MARIE KELL

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1 A. Yes. It's mine.
2 Q. That's your handwriting?
3 A. Yes.
4 Q. Could I ask you to look through all 25
5 pages and let me know whether each and every
6 page is your handwriting?
7 A. (Witness complies.) They're
8 mine.
9 Q. They're all yours?
10 A. Yes.
11 Q. Now, can you tell me where those pages
12 are from, which book or ledger or -- that's
13 from, or are they from different places?
14 A. They look like they would be
15 from my accounts payable, broke down by
16 individual -- that's what it looks like to
17 me, anyway, yes.
18 Q. It appears to be from the accounts
19 payable ledger; is that correct?
20 A. Yes.
21 Q. On the first page, can you tell me
22 what the word "Jack" refers to?
23 A. Jack Wolf, one of the -- field
24 individual.

Jurist Reporting Service, Inc.

LINDA MARIE KELL

189

1 Q. And on what is the fourth page of this
2 stapled document, can you tell me what the
3 word "Joe" refers to?
4 A. Joe Prespare.
5 the exhibit you have in front of you has a
6 date on at least some of the pages of 1979?
7 A. I didn't look at the dates.
8 Yes.
9 Q. So did you have to, before the end of
10 your employment, replace your ledger books,
11 or were you able to just continue to use the
12

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VA WWHXOTJ SFXHJ WWC7:60 06-07-10.

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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16 same ledger books for the whole time you were
17 employed there?
18 A. I don't know. I don't
19 remember -- I don't remember having to start
20 all over again. It's possible that I did,
21 from going through checkbooks, to try to get
22 it back into an order again. But I can't say
23 that it was -- definitely that's what
24 happened.

Jurist Reporting Service, Inc.

LINDA MARIE KELL

199

1 Q. That's what I was asking. Do you have
2 any recollection of trying to start over
3 again to formulate a complete set of books
4 sometime after the burglary?
5 A. No; I don't remember doing that,
6 let's put it that way, no.
7 Q. Would your best recollection be that
8 your ledger books were still there after the
9 burglary then?
10 A. It seems to me they were. I
11 don't remember them being taken. Just the
12 equipment, I remember being missing. I
13 don't --

3

* * *

4 BY MR. NOLL:
5 Q. I'd like to introduce myself. My name
6 is Paul Noll. I represent SmithKline
7 Beecham, and what I will be doing is --
8 hopefully, keep it very brief -- I'd like to
9 run a few names of potential waste oil
10 haulers, private haulers, by you and get your
11 reaction as to whether you recognize them in
12 any way; and further than that, whether you
13 recognize them as entities that would have
14 brought waste oil to BROs while you were
15 there working.
16 As a starting point, I'd like
17 you to refer back to Exhibit 1, which I
18 believe you previously identified as
19 containing your handwriting; and I think you
20 identified a few of the names.
21 As I correct in my understanding
22 that, I guess, Joe Prespare, Jack Wolf and
23 whatever names else might be in there are
24 private waste oil haulers?

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WJ WWHVOTJ SRYHJ WWC7:60 06-07-10.

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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LINDA MARIE KELL

207

1 A. Yes.

2 Q. And that the entries on those various
3 pages would reflect transactions with those
4 various waste oil haulers?

5 A. Yes.

6 Q. Just as an example, on the -- what I
7 will say is the very first page, the first
8 entry -- I think the page is captioned
9 "Jack" -- the entry -- the very first entry
10 of any significance is a "7-3" and what
11 appears to be "1250."

12 And then there's a number in
13 parentheses, and I guess there's a number
14 after that under the column of "Amount of
15 Load"; and then there's another column
16 further on where there's another number
17 entered. "Balance Due," I guess, is that
18 column.

19 Could you explain to me what the
20 number in the parentheses is?

21 A. The slip number, receipt number.

22 Q. When you say "receipt number," it's
23 the receipt --

24 A. When the driver would come in,
Jurist Reporting Service, Inc.

LINDA MARIE KELL

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1 he gets a receipt for the amount of gallons;
2 and that was the number -- they were numbered
3 tickets. Some books of receipts we had
4 weren't, and some were. It was that number
5 ticket so I could keep track that, yes, I did
6 enter this one.

7 Q. When you say the "receipt" and the
8 "number ticket," you're referring back to
9 those books that you mentioned Mr. DeCola
10 would fill out?

11 A. Yes.

12 Q. And that's the corresponding number to
13 those particular books for the receipt that
14 was pulled from the book?

15 A. Yes.

16 Q. As I had mentioned just a moment ago,
17 I would like to run a few names by you and
18 see if any of them ring a bell.

19 In connection with your having
20 worked at the BROS site, are you familiar
21 with the name ABC Waste Oil?

22 A. Yes. That's Joe Prespara.

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WJ WWHVOTJ SRVHJ WWOZ:60 06-07-10.

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XXX-130

23 O. That's -- I take it then that that was
24 a trade name for Joe Prespare?

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WJ WWHX07J SFYHJ WW07:60 06-07-10

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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LINDA MARIE KELL

209

1 A. Yes.
2 Q. Are you familiar with the name ALMO
3 Anti-Pollution or, alternatively, ALMO Tank
4 Cleaning?
5 A. Yes. They were out of -- they
6 were Clayton, I believe. That was -- John
7 Cucinotta, I believe, owned that one.
8 Q. Are you aware of any business
9 relationship or transactions between BROS and
10 either of those ALMO entities?
11 A. I believe they bought some oil
12 from ALMO. I believe -- if it was a lot -- I
13 mean, maybe a few loads. It was not a
14 routine, every day.
15 Q. When you say they bought some oil from
16 ALMO --
17 A. Bridgeport Rental.
18 Q. BROS --
19 A. Yes, bought from --
20 Q. So as I understand your testimony,
21 ALMO would have been essentially a private
22 waste oil supplier?
23 A. Yes.
24 Q. From which BROS purchased oil?

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PRIVILEGED AND CONFIDENTIAL B&D MA LM

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LINDA MARIE KELL

210

1 A. Yes.
2 Q. At one occasion or another. Are you
3 familiar with the name Coastal Services?
4 A. Yes.
5 Q. How did you become familiar with that
6 name?
7 A. They did clean-up for some
8 spills that we had, problems around the
9 tanks, et cetera.
10 Q. So I take it that they were an
11 independent contractor?
12 A. Yes.
13 Q. They -- are you aware of any instances
14 where Coastal would have sold waste oil to
15 BROS?
16 A. Not offhand, no. I can't -- I
17 don't remember them selling to us. I
18 remember them coming in there.
19 Q. Are you familiar with the name
20 Eastcoast Pollution Control?
21 A. Yes -- now I'm going to get
22 myself confused here. I think Eastcoast
23 may -- I don't know if that was another one
24 of John Cucinotta's outfits or not, to tell

Jurist Reporting Service, Inc.

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01-20-93 09:27AM PHKS FLOHAM PK

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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XXX-133

LINDA MARIE KELL

211

1 you the truth. I think there was a couple
2 different --
3 Q. So Eastcoast --
4 A. I know the name. That's --
5 Q. You're familiar with the name, as I
6 understand it?
7 A. Yes.
8 Q. And you are not necessarily certain
9 whether Eastcoast Pollution Control is an
10 entity that is somehow related to the
11 Cucinottas?
12 A. I'm not positive.
13 Q. Are you aware of DROS having ever
14 purchased waste oil from Eastcoast Pollution
15 Control?
16 A. Not offhand, I can't -- don't
17 ever remember them buying it from them, no.
18 Q. Are you familiar with the name Grigco
19 Oil?
20 A. Yes.
21 Q. How did you become acquainted with
22 that name?
23 A. Bill Grigsby is the owner. I
24 guess that's his -- and he would bring oil

Jurist Reporting Service, Inc.

LINDA MARIE KELL

212

1 up. He lived in Delaware.
2 Q. So I take it then Bill Grigsby or
3 Grigco Oil was a private waste oil hauler?
4 A. Yes.
5 Q. Are you familiar with the name Jacoby
6 Waste Oil?
7 A. Yes.
8 Q. And how did you become familiar with
9 that name?
10 A. He's also a private
11 individual -- I mean, waste oil collector
12 that used to come in, yes.
13 Q. You said "he." Do you recall the name
14 of the individual?
15 A. Neal Shrukler, I think.
16 Q. I take it then that Neal Shrukler
17 utilized the name Jacoby Waste Oil as a trade
18 name then?
19 A. Yes.
20 Q. And I believe you also mentioned that

01/602

VA WWHVOTJ SSVHJ WWJ7:60 06-07-10.

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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XXX-134

21 he was also a private waste oil hauler?
22 A. Yes.
23 Q. Are you familiar with the name
24 Mid-Atlantic Refinery Services?

Jurist Reporting Service, Inc.

LINDA MARIE KELL

213

1 A. Yes.
2 Q. And how did you become familiar with
3 that name?
4 A. They also did clean-up work for
5 spills; they provided us with -- there was a
6 streak out back, and they would clean up if
7 there was any problems.
8 Q. I take it then that they would provide
9 services similar to that of Coastal Services?
10 A. Yes.
11 Q. Are you familiar with the name Pepper
12 Industries?
13 A. I know the name, but I just
14 can't place who they are. I know the name.
15 I remember hearing the name, but I just
16 can't -- I can't put a face or a person with
17 them.
18 Q. Are you aware of BROS ever having
19 leased the large warehouse to anyone?
20 A. Pepper Industries, now that
21 you're saying that, I think. Now -- yes,
22 they had a big warehouse. What they used it
23 for originally, I have no idea.
24 Q. "They" being --

Jurist Reporting Service, Inc.

LINDA MARIE KELL

214

1 A. BROS. They did lease out a
2 section of it at one time, yes. Pepper
3 Industries seems to be the name that --
4 yes -- that they did -- what it was used for,
5 I have no idea.
6 Q. What Pepper used it for, you have no
7 idea?
8 A. Yes.
9 Q. Okay. Are you familiar with the name
10 Pittco, perhaps Pittco-Prickott?
11 A. Yes. They used to bring waste
12 oil in, yes.
13 Q. They are a waste oil supplier to BROS?
14 A. Yes.
15 Q. Are you familiar with the name Roland
16 Rogers?

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WJ WWHVOTJ CQVWJ WWR7:60 06-07-10

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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17 A. I know the name, but can't put a
18 face or -- if he brought oil -- I mean, I
19 know the name. But I -- I don't remember
20 actually dealing with -- personally, let's
21 put it that way.
22 Q. Would you have any reason to believe
23 that he would be a waste oil hauler?
24 A. I believe he was a waste oil
Jurist Reporting Service, Inc.

LINDA MARIE KELL

215

1 hauler, but I don't think he came to
2 Bridgeport full time. I think he had other
3 places that he took his oil to.
4 Q. Are you familiar with the name William
5 Schiavoni?
6 A. Yes. He was an independent
7 waste oil hauler, yes.
8 MR. NOLL: That's, I
9 believe, all the questions I have --
10 actually, I missed one. I have one
11 more question.

15 EXAMINATION

* * *

16 BY MR. RUBIN:
17 Q. Good afternoon, Mrs. Kell. My name is
18 Gary Rubin. I represent the United States
19 Department of Justice, and I represent a
20 number of defendants in this case. And I
21 appreciate your staying this afternoon to
22 answer our questions.
23 First question I have for you
24

Jurist Reporting Service, Inc.

LINDA MARIE KELL

218

1 is, prior to your appearing here today for
2 your deposition, have you had any
3 conversations with any of the attorneys who
4 have asked you questions today?
5 A. Mr. Noll.
6 Q. Anyone else?
7 A. No.
8 Q. Was Mr. Noll the one who initially
9 spoke with you about appearing for a
10 deposition today, if you recall?
11 A. Not really. We just asked me

CI/112

VJ WVVVOTJ CVVUJ WVOZ'60 05 07 10

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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XXX-136

12 some questions.
13 Q. Did you meet with Mr. Noll?
14 A. Yes.
15 Q. Where did you meet with him?
16 A. My house.
17 Q. And when was that that you met with
18 him?
19 A. Months ago.
20 Q. More than six months ago?
21 A. I would say, yes.
22 Q. And did he ask you questions about
23 your employment at the B-R-O-S Company?
24 A. Yes.

Jurist Reporting Service, Inc.

LINDA MARIE KELL

219

1 Q. At that time, did he show you any
2 documents and ask you either to identify them
3 or discuss them with him?
4 A. These documents (indicating),
5 the oil sheets.
6 Q. You're referring to the exhibits --
7 A. My handwriting, yes.
8 Q. Exhibit No. 1.
9 A. Yes.
10 Q. So you have seen this before today at
11 this deposition?
12 A. Yes.
13 Q. Did you have any other discussions
14 with Mr. Noll after that one time?
15 A. No.
16 Q. Let's turn to exhibit -- Kell Exhibit
17 No. 1, if we could, for a moment. As I
18 recall, you identified all of these 25 pages
19 as being in your handwriting.
20 A. Yes.
21 Q. I notice in the lower right-hand
22 corner, there is a Bates stamp number
23 beginning with the letter "E." Do you see
24 that?

Jurist Reporting Service, Inc.

LINDA MARIE KELL

220

1 A. Yes.
2 Q. And is that sequence or do these
3 numbers appear on each of the 25 pages?
4 A. I believe so, yes.
5 Q. You can flip them quickly or --
6 A. (Witness complies.) Yes.
7 Q. If you look at those numbers that I've

1
CI/712

VJ MWHXOTJ S9VHJ MWA7:60 06-07-1

PRIVILEGED AND CONFIDENTIAL B&D MA LM

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XXX-137

8 just asked you to flip through, can you see
9 that they are not necessarily consecutive
10 numbers; that there are numbers that are
11 missing?
12 For instance, page number one of
13 this exhibit is E0008874, but the second page
14 of the exhibit is 8846. Do you see that?
15 A. Yes.
16 Q. And throughout the document, there are
17 similar breaks in the sequence of pages.
18 When you first saw this exhibit,
19 Kell Exhibit 1, were there more than 25 pages
20 to it?
21 A. Not that I recall, no.
22 Q. You've identified Kell Exhibit 1 as
23 being from a particular ledger book; is that
24 correct?

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LINDA MARIE KELL

221

1 A. Yes.
2 Q. Can you tell, from looking at these 25
3 pages which are Kell Exhibit 1, what
4 inclusive years these pages represent?
5 A. Not offhand. I saw one page, it
6 had the date of 1979, so that's the --
7 Q. I believe the second page of the
8 exhibit, it says "1979." Is it likely that
9 these pages represent more than 1979, 1979,
10 or can you --
11 A. Just 1979.
12 Q. You believe that these represent just
13 1979?
14 A. Yes.
15 Q. And would it be accurate to say that
16 similar pages to the ones that are Kell
17 Exhibit 1 at some time existed for the other
18 years that you worked at the BROS site?
19 A. Yes.
20 Q. Have you seen those other pages?
21 A. No.
22 Q. I believe Mr. Noll asked you about the
23 names at the top of some of these pages,
24 Joe -- is it Prespare?

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LINDA MARIE KELL

222

1 A. Prespare. I don't know if I say
2 it right or not.

5/13/15

PK FLOHAM PHS 29AM 09:26-02-01

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XXX-138

3 Q. Joe.
4 A. Joe.
5 Q. And there's a few other names. And if
6 I remember correctly, these were all -- these
7 were not employees of BROS; is that correct?
8 A. Yes, that's correct.
9 Q. These are all private waste haulers?
10 A. Yes.
11 Q. Or employees of private waste haulers?
12 A. Yes.
13 Q. Earlier today, I believe you testified
14 that when you worked at the BROS Company, you
15 worked only Monday through Friday; is that
16 correct?
17 A. Yes.
18 Q. Do you know if anyone worked on
19 Saturdays and Sundays at the BROS facility?
20 A. Armen would possibly work
21 Saturdays, if he wasn't caught up on his work
22 or whatever, but no Sundays.
23 Q. Would you say that it was customary or
24 usual for Armen DeCola -- is that who "Armen"
Jurist Reporting Service, Inc.

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VA WAKKOTJ S9XKJ WAKC:60 06-07-10

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LINDA MARIE KELL

223

1 is?
2 A. Yes.
3 Q. -- Armen DeCola to work Saturdays?
4 A. Yes, I would say so. Armen
5 never vacationed, never -- he lived there.
6 Q. Do you know of any other employee,
7 part-time or full time, that worked on
8 Saturdays at least once a month during the
9 time that you were there?
10 A. Not offhand. Maybe David
11 Borrelli would be one that -- for work around
12 the plant.
13 Q. Did the BROS Company both purchase and
14 sell oil products of some sort?
15 A. Yes.
16 Q. Would it be true -- would it be
17 correct to say that the BROS Company sold
18 waste oil products to other companies?
19 A. Yes.
20 Q. So it would be correct to say then
21 that BROS was in the business, at least in
22 part, of buying and selling waste products.

Q1/C12

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